

Remarks

I. Introduction

This is in response to the Office Action dated June 15, 2009.

The Office Action objected to claim 1 as containing informalities.

The Office Action rejected claims 1, 2, and 5-10 under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No. 5, 983, 068 to Tomich et al. ("Tomich") and U.S. Patent No. 6,486,907 to Farber et al. ("Farber").

The Office Action rejected claims 11, 13-16, 20-23, and 30 under 35 U.S.C. 103(a) as being unpatentable over Tomich in view of Farber and Applicant's admitted prior art.

The Office Action rejected claims 29 and 31 under 35 U.S.C. 103(a) as being unpatentable over Tomich, Farber and Applicant's conceded prior art and further in view of U.S. Patent No. 6,298,373 to Burns et al. ("Burns").

In response, Applicants have amended claims 1, 5, 7, 11, 14, 20, and 30 and cancelled claims 2, 13, and 15. Claims 3-4, 12, 17-19, and 24-28 were previously cancelled. Claims 1, 5-11, 14, 16, 20-23, and 29-31 remain for consideration.

II. Objection to Claim 1

The Office Action objected to claim 1 as containing informalities. Specifically, the Office Action indicates that in claim 1, line 10, "a packetized data signal" should be changed to "the packetized data signal." In response, Applicant has amended claim 1 in accordance with the Examiner's suggestion. Accordingly, Applicant respectfully requests withdrawal of the objection to claim 1.

III. Rejections under 35 U.S.C. §103

Independent claim 1 was rejected as being unpatentable over Applicant's admitted prior art in view of Tomich and Farber.

In order to "establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art." In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Furthermore, "all words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See also MPEP § 2143.03. The Applicant's allegedly admitted prior art and the cited references, either alone or in combination, do not teach all of the claim limitations of currently amended independent claim 1. Therefore, Applicants request the withdrawal of the rejections under 35 U.S.C. §103(a).

The subject area of the present invention relates generally to the delivery of communication signals and in particular, to a system and method for delivering television services via a fiber optic network without being subject to right-of-way franchise fees.

Figure 2a depicts one embodiment of the system and method for delivering communication signals which is described in paragraphs [0035]-[0043] of the specification as filed. In one embodiment, central office 202 of system 200 transmits telephony and data signals through fiber optic strand 212 to multiplexer 206. A public right-of-way 214 is located between central office 202 and multiplexer 206 such that fiber optic strand 212 must cross or pass through right-of-way 214 to reach multiplexer 206. Signals that traverse public right-of-way 214 require the provider of the signals (e.g. the administrator of system 200) to pay telephone franchise fees. In order to avoid incurring additional fees for the transmission of a video signal across public right-of-way 214, video signals are transmitted wirelessly. Wireless receiver 204 is located on a side of public right-of-way 214 opposite central office 202. Wireless receiver 204 receives over-the-air video signals and transmits the video signals to multiplexer 206 through a fiber optic strand 216. Multiplexer 206 combines the telephony, data, and video signals for transmission through a single fiber optic strand 218 to optical network unit 208.

Optical network unit 208 separates the combined signal into its individual telephony, data, and video signals, and converts the individual fiber optic signals into electronic signals for deliver through drop 220 to subscriber 210.

Paragraph [0043] of the specification as filed describes an embodiment in which multiplexer 206 is installed in fiber optic strand 220 between optical network unit 208 and subscriber 210. This aspect is claimed in currently amended independent claim 1 which includes the limitations of:

a multiplexer on the second side of the right-of-way located between and in communication with the optical network unit and the subscriber; and
a wireless receiver located on the second side of the right-of-way, the wireless receiver receiving the video signal and transmitting the video signal to the multiplexer, the multiplexer combining the video signal, the telephony signal and the packetized data signal into a combined signal for routing to the subscriber.

These limitations are not disclosed by Applicant's allegedly admitted prior art, Tomich, and Farber, separately or in combination.

Tomich pertains to a photonic home area network for interfacing an external communications data network with a plurality of buildings, residential or commercial, in a neighborhood. Although Figure 3 of Tomich depicts a wireless rooftop unit 22 and fiber optic cables 200 connected to set top box circuit 24, fiber optic cable 200 can be used to replace rooftop unit 22 and is not described as being used in conjunction with rooftop unit 22. Thus, Tomich does not disclose the limitations of "a multiplexer on the second side of the right-of-way located between and in communication with the optical network unit and the subscriber" and "a wireless receiver located on the second side of the right-of-way, the wireless receiver receiving the video signal and transmitting the video signal to the multiplexer, the multiplexer combining the video signal, the telephony signal and the packetized data signal into a combined signal for routing to the subscriber" as recited in currently amended independent claim 1. Farber fails to provide the limitations missing from Tomich.

Farber pertains to satellite distributed television including a head end which includes a fiber optic transmitter that combines satellite signals from a satellite antenna with non-satellite signals. Figure 2 of Farber depicts satellite receiver 42 connected to head end 40 which distributes signals to fiber optic receivers 52. The fiber optic receivers 52, in turn, provide signals to RF splitters 54 which output signals to satellite receivers 58. Although Farber discloses receiving satellite signals and transmitting the signals to multiple receivers, Farber does not disclose a multiplexer located between an optical network unit and a subscriber. Further, none of the components disclosed in Farber multiplex a video signal from a wireless receiver with telephony and packetized data signals. Thus, Farber does not disclose the limitations of “a multiplexer on the second side of the right-of-way located between and in communication with the optical network unit and the subscriber” and “a wireless receiver located on the second side of the right-of-way, the wireless receiver receiving the video signal and transmitting the video signal to the multiplexer, the multiplexer combining the video signal, the telephony signal and the packetized data signal into a combined signal for routing to the subscriber” as recited in currently amended independent claim 1. Applicant’s allegedly admitted prior art does not provide the limitations missing from Tomich and Farber.

The Office Action appears to indicate that Figure 1 of the present application and the accompanying description in the specification as filed are Applicant admitted prior art. Regardless of whether Figure 1 and the accompanying description are admitted prior art, Figure 1 and the accompanying description do not disclose a multiplexer located between an optical network unit and a subscriber for multiplexing video signals from a wireless receiver with telephony and data signals received from a central office. Thus, the Applicant’s allegedly admitted prior art does not disclose the limitations of “a multiplexer on the second side of the right-of-way located between and in communication with the optical network unit and the subscriber” and “a wireless receiver located on the second side of the right-of-way, the wireless receiver receiving the video signal and transmitting the video signal to the multiplexer, the multiplexer combining the video signal, the telephony signal and the packetized data signal into a combined signal for routing to the subscriber” as recited in currently amended independent claim 1.

For reasons discussed above, Tomich, Farber, and Applicant's allegedly admitted prior art do not disclose each and every limitation of currently amended independent claim 1. As such, the cited references and the Applicant's allegedly admitted prior art cannot render independent claim 1 unpatentable. Accordingly, Applicant respectfully request withdrawal of the rejection of claim 1 under 35 U.S.C. §103(a).

Independent claims 11, 20, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tomich in view of Farber and Applicant's allegedly admitted prior art. Claims 11, 20, and 30 have been amended in a manner similar to currently amended independent claim 1. As such, Tomich, Farber, and Applicant's allegedly admitted prior art do not disclose each and every limitation of currently amended claims 11, 20, and 30 for reasons similar to those discussed above in connection with independent claim 1. Accordingly, Applicant respectfully request withdrawal of the rejections of claims 11, 20, and 30 under 35 U.S.C. §103(a).

For the reasons discussed above, all independent claims are allowable over the cited art. Allowance of all independent claims is requested.

All remaining dependent claims are dependent upon an allowable independent claim and are therefore also allowable.

IV. No New Matter has Been Added

The amendments to claims 1, 5, 7, 11, 14, 20, and 30 do not add new matter. Support for these amendments can be found at least in Figure 2 and paragraphs [0036]-[0043] of the specification as originally filed.

V. Conclusion

For the reasons discussed above, all pending claims are allowable over the cited art. Reconsideration and allowance of all claims is respectfully requested.

If this communication is filed after the shortened statutory time period has elapsed and no separate Petition is enclosed (or the enclosed Petition is insufficient), the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 06-2143.

Respectfully submitted,

/Joseph G. Fenske/

Joseph G. Fenske
Reg. No. 54,592
Attorney for Applicant
Tel.: 973-530-2128

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AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921